[Sh. S. S. Surjewala]

tion; I would like to draw the attention of the Government to the acute shortage of DAP in the northern States such as Haryana, Punjab and other States. I filed this Special Mention about a week ago. Within this one week; I think majority of farmers, as you also know very well; must have already sown their crops. The glaring fact is that the DAP fertilizer which is very, very important for the sowing of wheat crop, was being sold in the Government-controlled shops; such as IFFCO; the Co-operative Societies; etc.; at the rate of Rs. 330/- per bag whereas the sameDAP fertilizer was being sold in the private shops at the rate of Rs. 370/- per bag. On account of a gap of Rs. 40/- per bag of DAP fertilizer; it is finding its way from the godowns of the Government controlled shops such as IFFCO and Co-operative Societies to the private shops. This has brought a great resentment among the farmers.

Sir, as you know, wheat is the main crop in northern India and the shortage of wheat in the country is going to cost the country very dearly. The farmers are already suffering on account of the very low price of superfine Basumati prevailing in the market about which I made a mention in connection with a Question yesterday. The price of superfine Basumati, which was normally ranging around Rs. 1,500/- per quintal, has fallen to the level of Rs. 500/- per quintal. It is a very big tragedy to the farmers. I think this is going to cost the authorities and the Government very dearly. Through this Special Mention, I would like to say that the farmers who had already sold their wheat, should be given some sort of financial help either in the shape of bonus or in some other way. In future, the Government should conduct an enquiry into the cause of disappearance of fertilizers from the Government-cantrolled shops and it should come to the rescue of farmers and see that in future no such dual prices prevail and fertilizer is made available at the time of sowing of any appropriate crop I would like the Government to pay very special attention to this fact so that some of the worries of the farmers might be mitigated.

Thank you very much, Sir.

DR. NAUNIHAL SINGH (Uttar Pradesh): Sir, I associate myself with this.

THE ADVOCATES (AMENDMENT) BILL, 1992

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ): Sir, I beg to move:

"That the Bill further to amend the Advocates Act, 1961; as passed by the Lok Sabha; be taken in consideration."

The Advocates Act, 1961 was enacted with a view to amending and consolidating the law relating to legal practitioners and providing for constitution of Bar Councils. It was amended, from time to time, taking in account, among other things, the proposals made by the Bar Council of India. Recently, the Bar Council of India and certain other bodies and individuals have made a number of proposals for further amending the Act. Based on the experience gained in the administration of the Advocates Act, 1961, and keeping in view the further amend the Act with a view to enabling the Bar Council of India and the State Bar Councils to function more effectively for the betterment of legal profession. Sections 6 and 7 of the Advocates Act

4.00 P.M.

1961 spell out the functions of the Bar Councils and the Bar Council of India respectively, Amendments to these sections have been proposed with a view to empowering the State

Bar Councils to promote the growth of Bar Associations for purposes of implementing the welfare schemes for advocates and to visit and inspect the Universities on the directions of the Bar Council of India and to constitute funds for establishing Law Libraries. It was found that certain Bar Councils do not hold elections in time. In the absence of regular elections, the elected members of the Council continue to hold office for indefinite periods and Courts have observed that non-holding of elections in time is an undemocratic practice. After consulting the Bar Council of India, it is now proposed to amend section 8 to provide for automatic cessation of membership of the members of the State Bar Council in the event of non-holding of elections within the period of five years or an extended period of six months granted by the Bar Council of India. A Committee of three members is to be constituted for the purpose of holding elections and to discharge the functions of the State Bar Council in the absence of the elected body. The Committee shall also hold the elections within a period of six months from the date of its constitution or an extended period granted by the Bar Council of India.

At present, section 10A of the Act provides that the Bar Council of India shall meet at New Delhi and a State Bar Council shall meet at its headquarters. Originally, there was no restriction with regard to the place of meeting of the Bar Council of India or of a State Bar Council. In 1974, section 10A was inserted in order to cut down the expenditure on account of holding the meetings outside the headquarters. It was found in practice that no savings in expenditure were made by holding the meetings at headquarters. It is now proposed to amend section 10A suitably so that the Bar Council of India and the State Bar Councils could meet outside the headquarters also.

Section 24 of the Act specifies the persons who may be admitted as advocates on a State roll. Under this section, one of the conditions to be fulfilled for admission as an advocate is that he has paid an enrolment fee of Rs. 250|- to the State Bar Council. However, the enrolment fee payable by a person who is a member of the Scheduled Castes or Scheduled Tribes is kept at Rs. 125|-. Section 46 of the Act requires that every State Bar Council shall, for each financial year, pay to the Bar Council of India a sum equivalent to 20 per cent , of the total of the enrolment fees realised by it under the Act during that year. The Bar Council of India and the State Bar Councils have represented that the expenditure involved in the administration of the Bar Coununcil of India and he State Bar Councils is growing every year and that it has become necessary to revive the enrolment fee upwards from Rs. 250|- to Rs. 750|- without disturbing the fee payable in the case of persons belonging to the Scheduled Castes and Scheduled Tribes. The Bar Council of India further suggested that there has been avoidable delay on the part of the State Bar Councils in transferring its part of the enrolment fees and this has created hardships for them. It is proposed to omit section 46 and amend section 24 for providing that 20 per cent of the total of the enrolment fees be paid separately by the person making payment at the time of his admission as an advocate State roll by way of a bank drawn in favour of the Bar Council of India.

Section 24A of the Act prescribes disqualification for enrolment. The Bar Council of India has pointed out that, under the existing provisions, a person who is removed or dismissed from employment or office under the State as defined in article 12 of the Constitution on charges involving mo-

[Shri H. R. Bhardwaj]

ral turpitude has not been disqualified utio nfor laying down conditions sub- be suitably amended for this purpose. It is proposed to amend the said section accordingly.

Section 52 of the Act saves the power of the Supreme Court to make rules under article 145 of the Constitution for laying down conditions subject to which a senior advocate shall be entitled to practice in that court and for determining the persons who shall be entitled to act in that court. The Supreme Court recently suggested that this Section be amended to empower that Court to make rules *for determining persons who shall be* entitled to plead before that Court.

The present Bill seeks to amend the Advocates Act, 1961 to give effect to the above objects.

Sir, the Bill was passed by the Lok Sabha, and I got the support of all the sections of the House. Hence this Bill is now before the House.

The question was proposed.

श्री संघ प्रिय गौतम (उत्तर प्रदेश): उपसभाध्यक्ष महोदय, माननीय विधि और न्याय मंत्री जी ने अभी विधेयक को प्रस्तुत करते समय यह कहा कि अनेकों बार अधिवक्ता अधिनियम में संशोधन करने पड़े हैं । मैं समझता हूं कि इसमें और एक दो संशोधन करने की आवश्यकता थी । अच्छा होता यदि विधि एवं न्याय मंत्री उन संशोधनों को अभी ले लेते । मैं भी क्षमा चाहूंगा कि आज ही मैंने इस विधेयक को पढ़ा इसलिये मैं संशोधन प्रस्तुत नहीं कर सका । लेकिन यह आशा करूंगा कि आप जब उत्तर देंगे तब उन पर विचार करेंगे ।

आपने बताया कि इन संशोधनों की आवश्यकता क्यों पड़ी । उस आवश्यकता के स्रोत बताये कि भारतीय विधि परिषद ने अनेकों बार सुझाव दिये कि अधिवक्ता अधिनियम में कुछ संशोधन होने चाहिये । आपने यह भी कहा कि कुछ अन्य संगठनों और व्यक्तियों ने और अधिवक्ता अधिनियम का जो अब तक का अनुभव हुआ उसके आधार पर इन संशोधनों की आवश्यकता पड़ी अर यह विधि का व्यवसाय जो है यह और अच्छा बने यह एक मात्र मंशा इन संशोधनों के पीछे दर्शायी गयी । लेकिन प्रारंभ में ही जिक्र करना चाहूंगा कि विधि का पेशा – यों तो बहुत से व्यवसाय बदनाम होते जा रहे हैं और बहुत से विभाग भी बदनाम होते जा रहे हैं लेकिन यह विधि का व्यवसाय भी काफी बदनाम होता जा रहा है । स्वयं जब अवकाश ग्रहण कर लेते हैं सर्वोच्च न्यायालय के न्यायाधीश मुख्य न्यायाधीश तो ये भी न्यायपालिका के ऊपर टिप्पणी करते हैं । विधि और न्याय मंत्री जी का यह अनुभव होगा और आज भी हमने यह पढ़ा कि पटियाला हाउस के अधीनस्थ न्यायालय के अधिवक्ता हड़ताल पर हैं । आये दिन अधीनस्थ न्यायालयों में हड़तालें होती रहती हैं और हड़तालों के कारण न्याय दृष्टि से संबंध रखने वाले कम, जो न्यायपालिका, बेंच और बार के बीच में संबंध है उनकी मधुरता में कमी आने के ज्यादा कारण होते है । आपको अनभव होगा मंत्री जी कि 1961 के पहले जब यह अधिनियम बनाया गया तो तीन तरह के अधिवक्ता यानी वकालत करने वाले लोग होते थे – अधिवक्ता, वकील और तीसरा मुख्तार । मैं भी काफी पुराना अधिवक्ता रहा हूं । तो वकील के लिये, अधिवक्ता के लिये किसी ज्येष्ठ अधिवक्ता के साथ–विधि स्नातक की उपाधि लेने के उपरांत–एक साल का प्रशिक्षण लेना आवश्यक था ।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) : गौतम जी, आज यह पता चला कि आप पुराने अधिवक्ता रहे हैं । इसलिये हाउस में इतने अच्छे वक्ता हैं ।

श्री संघ प्रिय गौतम । बहुत-बहुत धन्यवाद आपके कमेंटस के लिये ।

उस समय यह जो एक वर्ष का प्रशिक्षण या किसी ज्येष्ठ अधिवक्ता के साथ, यह आवश्यक था। यह क्यों आवश्यक था, कि आर्ट आफ एडवोकेसी या कि जो विधि के व्यवसाय की महत्ता और उसमें योग्यता हासिल करनी है उससे ज्यादा जरूरी था बेंच और बार के सम्मुख डीसेंसी और डेकोरम को मेंटेन करना। आज उसमें बहुत गिरावट आई है और गिरावट किस लिये आई है कि वह जो एक साल का प्रशिक्षण था वह समाप्त कर दिया गया है और सीधे जो विधि के स्नातक की उपाधि लेकर आज आयेगा, अगले दिन से ही उसका इनरोलमेंट अधिवक्ता की हैसियत से हो सकता है। न तो उसने डीसेंसी सीखी, न उसने डेकोरम सीखा, न उसने आर्ट आफ एडवोकेसी सीखी। इसलिये आज मुख्यतः अधीनस्थ न्यायालयों में और इस व्यवसाय में बड़ी गिरावट आ रही है। और आये दिन संबंध खराब होते जा रहे हैं बेंच और बार के। महोदय, मुझे इस विषय में अधीनस्थ न्यायालय का काफी अनुभव है। दूसरे एक वर्ष तक एक ज्येष्ठ अधिवक्ता के साथ बैठकर उस नये अधिवक्ता में शालीनता भी आती थी। अब वह या तो स्वयं स्वतंत्र रूप से इस पेशे की शरूआत कर देता है या एक-दो वर्ष पहले जिसने पेशा शुरू कर दिया है, उसके साथ बैठ जाता है। मैं यह संशोधन इसलिये पेश कर रहा हूं क्योंकि आज बेंच और बार के संबंधों मे खराबी आ रही है, आये दिन हड़ताल हो रही है जिससे कि वादकारी का नुकसान हो रहा है जबकि न्यायालयों में लिखा हुआ है कि वादकारी का हित सर्वोच्च है, लेकिन उसके हित का अहित हो रहा है। दूसरे वहां पहले ही बड़ी भारी संख्या में मुकदमे विचाराधीन पड़े हुये हैं और हड़तालों के कारण भी मुकदमे तय नहीं हो पाते। इसलिये यह संशोधन आवश्यक है और मैं समझता हूं कि अगर विधि-स्नातक की उपाधि लेने के उपरांत अगर एक साल का प्रशिक्षण आवश्यक कर दिया जाये किसी ज्येष्ठ अधिवक्ता के साथ तो शायद इन संबंधों में मधुरता आ सकेगी और उप सभाध्यक्ष महोदय हमारे इस अधिनियम में प्रावधान है कि अधिवक्ताओं की भी दो श्रेणी हैं – ज्येष्ठ अधिवक्ता और अन्य अधिवक्ता और वह अधीनस्थ न्यायालयों में भी है। इसलिये अगर यह एक और इसमें संशोधन आप कर दें तो मैं समझता हूं कि बेंच और बार के संबंधों को मधुर बनाने में और हड़तालों को रोकने में काफी मदद मिलेगी।

दूसरे यहां पर डिस-क्वालिफिकेशन का प्रावधान है। 24 (ए) में केवल इतना प्रावधान है कि वह व्यक्ति जो सजायाफ्ता होगा टरिपिक अपराध या मोरल टर्पीट्यूड में तो उसका पंजीकरण अधिवकता की हैसियत से नहीं हो सकता। मान्यवर आपको बड़ा अनुभव होगा और मुझे भी बहुत है कि बड़े अपराधी हैं, लेकिन कभी उनको सजा नहीं होती है और अंतिम सजा तब तक नहीं मानी जाएगी जब तक कि वह अंतिम न्यायालय से बरकरार न रहे। जो केवल इतना लिख देना कि जिसे सजा न हुई हो चारित्रिक अपराधों में उसी का पंजीकरण नहीं होगा, यह पर्याप्त नहीं है। महोदय, विद्यार्थी जीवन में मास्टरों को पीटते हैं, नकल करते हुए पकड़े जाते हैं और रोजाना जिनके खिलाफ अपराध पंजीकृत होते हैं और जेल भेजे जाते हैं, तो उस आपराधिक चरित्र को भी देखना चाहिए। आज नए अधिवक्ताओं को नौकरी नहीं मिलती है तथा विभागों की नौकरियों की छंटनी हो रही है तो विधि स्नातक की उपाधि लेने के बाद उन्हें कोई प्रशिक्षण लेना नहीं पड़ता है और वे सीधे जाकर अधिवक्ता का पंजीकरण करा लेते हैं, इससे यह हो रहा है कि अधीनस्थ न्यायालयों में नए अधिवक्ताओं की संख्या तो बढ़ी है और इनका दबदबा इतना बढ़ गया है कि ज्येष्ठ अधिवक्ता, जो हमारी विधि के संस्थान है अधीनस्थ न्यायालयों के, उनके पदों के लिए निर्वाचित ही नहीं हो पाते और निर्वाचित हों तो वह अपनी नोन-तेल-लकड़ी के चक्कर में उन्हें नजरअंदाज करते रहते हैं। उनका कोई दबदबा इन नए अधिवक्ताओं पर नहीं रह गया है। इसलिए आज इस व्यवसाय की काफी बदनामी हो रही हैं। इस कारण आप यह संशोधन इसमें ले

[श्री संघ प्रिय गौतम]

आते क्योंकि चारित्रिक अपराध केवल सजायाफ्ता से ही सिद्ध नहीं होता है, उसके और भी अनेकों सबूत हैं । तो चारित्रिक अपराध का जिसका इतिहास रहा हो, उसका भी पंजीकरण नहीं होगा, आप ऐसा संशोधन करें तो उचित रहेगा ।

महोदय, मैं ये संशोधन प्रारंभ में ही देना चाहता हूं। आपने इसके संशोधनों के कारण बताये हैं वे कारण काफी हद तक सही हैं । पहला कारण यह कि आपकी भारतीय विधिज्ञ परिषद और राज्य परिषदों को यह अधिकार मिले कि वह आवश्यकता और इच्छानुसार मुख्यालय के अलावा कहीं और भी बैठकें करें, यह संशोधन उचित है और मैं इसका समर्थन करता हूं क्योंकि आवश्यकता पड़ सकती है। जब हमारी संसद की समितियां आवश्यकता व इच्छानुसार मुख्यालय के अलावा देश के अनेकों स्थानों पर मिल सकती हैं, बैठकें कर सकती हैं और भी अनेकों समितियां व आयोग आवश्यकता और इच्छा के अनुसार अपनी बैठकें आहूत कर सकते हैं तो फिर भारतीय विधिज्ञ परिषद और राज्य विधिज्ञ परिषदें इससे क्यों वंचित रहें यह जो संशोधन है, यह समुचित है और मैं इसका समर्थन करता हूं ।

इसके अलावा दूसरा संशोधन, कि यह जो आपने पंजीकरण की राशि बढ़ाई है, इसको आप खर्च करेंगे कि विधि पुस्तकालयों की स्थापना हो और अधिवक्ताओं के कल्याण संबंधी जितनी भी योजनायें हैं उनका क्रियान्वयन हो सके । यह भी सही है, लेकिन इसमें थोड़े से संशोधन की आवश्यकता है । वह यह कि जो अधिवक्ता अपने व्यवसाय के दौरान अगर शरीर से बेकार हो गए हैं या दिमाग से बेकार हो गए हैं तो उनके परिवारों को या उनको, लेकिन इसमें ऐसे भी अधिवक्ता होने चाहिएं जिनकी हत्या हो जाती है या व्यवसाय के दौरान जवानी में ही जिनकी मृत्यु हो जाती है और जिनके परिवार में और कोई आमदनी का स्रोत नहीं है या उनके बच्चों के लालन-पालन का और कोई जरिया नहीं है, वह लोग भी इससे लाभान्वित हो सकें । इसकी भी व्याख्या विस्तृत करनी चाहिए क्योंकि इस व्यवसाय के अलावा उनका और कोई धंधा नहीं है तो उसके परिवार के लोग कहां जायेंगे ? सरकारी कर्मचारियों के लिए तो यह प्रावधान है कि अगर सेवा के दौरान किसी कर्मचारी की मृत्यु हो जाती है तो उनके आश्रितों को नौकरी मिल सकती है, लेकिन अगर अधिवक्ता की मृत्यु हो जाए तो उसके बच्चों का कुछ नहीं । इसलिए इसमें यह भी एक संशोधन लाना चाहिए। यह अपने धनराशि बढ़ाई ताकि पुस्तकालय हों, पुस्तकालय में लोग बैठें, पुस्तकें पढ़ें, यह एक समुचित संशोधन है और मैं इसका भी समर्थन करता हूं ।

मान्यवर, हमारे अधिवक्ता अधिनियम में प्रावधान यह है कि जो हमारी राज्य विधि परिषद हैं अथवा जो विधिज्ञ संस्थान हैं, उनके गठनों के द्वारा और कानून संबंधी विषयों पर सामूहिक मिलन कार्यक्रम हो, वहां पर चर्चायें हों और निर्णय लिए जायें। इसमें विधिवेताओं को बुलाया जाए। इसमें मैं एक संशोधन यह भी चाहूंगा कि राष्ट्रीय मुद्दों पर भी यह जो विधिज्ञ संस्थान हैं या संगठन हैं या यह राज्य विधिज्ञ परिषद हैं, इनमें चर्चा होनी चाहिएं क्योंकि दुनियां में जितने बुद्धिजीवी हैं, निःसंदेह अधिवक्ता प्रथम श्रेणी के बुद्धिजीवीयों में आते हैं । किसी भी समाज, राष्ट्र के निर्माण, हित, विकास, कल्याण, सामाजिक और राजनीतिक क्रांतियों में बुद्धिजीवियों का बहुत बड़ा योगदान रहा है और निःसंदेह इसमें अधिवक्ताओं का बहुत बड़ा योगदान रहा है । इसलिए इन विषयों पर भी सामूहिक मिलन कार्यक्रम, गोष्ठियों का आयोजन होना चाहिए । ...(**समय की घंटी**)...

मान्यवर, समाप्त कर रहा हूं । मैं यह देख रहा हूं कि राष्ट्रीय मुद्दों पर वहां कोई चर्चा नहीं हुई । उदाहरण के तौर पर यह डंकल प्रस्ताव है, जो कि अत्यन्त महत्वपूर्ण प्रस्ताव है और जो कानूनी महत्व का भी है, इस पर भारतीय विधि परिषद या राज्यों की विधिज्ञ परिषदों में या अधीनस्थ न्यायालयों की विधिज्ञ संस्थानों में कभी चर्चा नहीं की गई । इस संबंध में आपकी तरफ से इसमें एक संशोधन

होना चाहिए क्योंकि यह तथ्य अगर इसमें विद्यमान हो जाय कि राष्ट्रीय पहलुओं पर बुद्धिजीवियों का यह वर्ग चर्चा करेगा तो राष्ट्र को निःसंदेह इसका लाभ पहुंचेगा।

मान्यवर, आपने इसमें यहां यह कहा है कि सर्वोच्च न्यायालय को यह अधिकार दिया है, सर्वोच्च न्यायालय के सामने कौन प्रस्तुत होकर वकालत कर सकता है। मैं समझता हूं कि इसका उल्लेख अधिनियम में है और दूसरा इसका यह है कि अमुक समय पर और अमुक के सामने कौन प्रस्तुत हो सकता है, इसका भी प्रावधान है। लेकिन, अगर सर्वोच्च न्यायालय को आप यह अधिकार देना चाहते हैं तो मैं एक सुझाव देना चाहूंगा, इस पर आप विचार करें और सदन से भी मैं प्रार्थना करूंगा कि इस पर विचार करें कि—

Every pleader may not be a good leader, but every good leader may be a good pleader.

जो बहुत लम्बे अरसे तक विधान मंडलों में और संसद में सदस्य रहे हैं और जिनका चर्चा में बड़ा भारी योगदान रहा है, उन लोगों को भी सुप्रीम कोर्ट के सामने, भले ही वे लॉ ग्रेजुएट न हों या एनरोल्ड न हों, उनको भी शामिल कर लिया जाए। इस तथ्य को आप ध्यान में रखेंगे।... (**समय की घंटी**)...मान्यवर, आप बार-बार घंटी बजा रहे हैं, अभी दो तीन मिनट बाकी है। 16 मिनट का मेरे पास समय है।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह): नहीं, नहीं आप ऐसा मत कहिए। चार बजकर बीस मिनट हो गए हैं, अब आप समाप्त करिए।

श्री संघप्रिय गौतम : मैं आपके आदेश का पालन करूंगा। आप मुझे मत रोकिए, 420 बहुत बुरा होता है।

खैर, आपने जितने भी इसमें संशोधन प्रस्तुत किए हैं और चूंकि लोक सभा से ये पारित हो चुके हैं, मैं इन सबका समर्थन करता हूं इस आशा और विश्वास से कि जो सुझाव मैंने आपके सामने रखे हैं, आप उत्तर देते समय उनको स्वीकार भी करेंगे और जब आप विधेयक लायेंगे तैयार करके, उसमें उनका समावेश करेंगे। धन्यवाद।

SHRI RAM JETHMALANI: (Karnataka): Mr. Vice-Chairman, Sir, I accept most heartily the principle of this Bill, and I welcome some of the proposals that the Bill contains. All the proposals are the outcome of lessons which have been learnt from the experience of the working of the Advocates Act as originally passed, and it is true that this reflects the overwhelming opinion of the majority of the Bar and the Bar Council of India and the State Bar Councils. Sir, whatever may be my other differences with Mr. Bhardwaj, I must congratulate him that he has brought this measure before this House. In fact, my grievance is that it is a long overdue measure and it should have been brought much earlier because these complaints have been fastering with the Bar and creating a lot of discontent for quite a long time. But, Sir, it is always true that legislation always lags behind public opinion and it always takes some little time. But, however, better late than never.

Sir, while welcoming everything that the Bill contains, I think there are some inadvertent aspects which probably deserve either a clarification or a little amendmetn and I am, with great humility, pointing these out to the hon. Minister who is present, so that he should apply his mind to this aspect of the matter and set if he can bring about a textual improvement in the provisions.

For example, in section 6, a new clause (dd) is to be added, which says:

> "to promote the growth of Bar Assocations for the purposes of effective implementation of the welfare scheme refrred to in clause(a) of sub-section (2)..."

Now, Sir, effective implementation of welfare schemes is a very laudable

[Shri Ram Jethmalani]

object and I am glad that it is being brought out into prominence so that the Bar Councils must carry out their duties in the matter of implementation of these welfare schemes. But what I am not able to appreciate -- and probably the Minister may have good reasons which I would like to hear when he is replying to us—is the connection between implementation of welfare schemes and promoting the growth of Bar Associations. Every taluka place has a Bar Association, every Court has a Bar Association. The grievance really is that sometimes there are more Bar Associations than are necessary. Every District Court has a Bar Association; every High Court has four Bar Associations. So I dont see why it should be the function of the Bar Councils to promote the growth of Bar Associations. Growth of Bar Associations means the mushrooming of Bar Associations, more Bar Associations that exist, and I don't see any plausible connection between the number of Bar Associations to be brought into existence and the implementaiton of the welfare schemes. What obviousy the Draftsman of this measure means is that you must take the assistance of members of the Bar either individually or collectively for the purpose of implementaiton of these welfare schemes. The language does not bring out that object very clearly. On the contrary, it create a duty which ought not to be imposed upon the Bar Councils, namely to promote the birth of new Bar Associations. We have already too many of them, and I think the number requires to be controlled. There is need for birth control in the field of Bar Associations, but the Minister seems to sort of promote unbridled birth in this field, which is rather going to be very very deleterious.

SHRI MOTURU HANUMANTHA RAO (Andhra Pradesh): Wherever there is a court, a Bar Association would be there and should be there. What is the obection

SHRI RAM JETHMALANI: I am not saying that there should be no Bar Association. There are Bar Associations. The Bar Associations are voluntary. What do you mean by "to promote the growth if Bar Associations"? Nobody has suggested that there is no Bar Association. There are Bar Associations everywhere. Every taluka has a Bar Association. Every court has a Bar Association today. The trouble is that there are too many of them. In fact, you see today that in strikes one Bar Association is on one side and another is on the other side which is creating a lot of dissentions. I do not know. The Minister may have good reasons for connecting these two objects. If he has any good reason, be will disclose it to the House, and the House, and the House will withdraw the criticism At least I will withdraw my criticism.

Then, Sir, in section 8, the newly added section 8A takes care of the situation which has been ailing the functioning of the Bar Councils for a very very long time, that the State Bar Councils, to protect the term of their members and to see that they do not have to face new elections, keep postponing elections from time to time. This has become such a notorious evil in the working of our State Bar Councils. I am glad that this is being taken care of. But, while it is being taken care of, there is a slight inconsistency between section 8 and section 8A, and section 8 should provide that the extension of the term of the Bar Council should be sanctioned by the Bar Council of India before the term actually expires. In other words, if the State

Bar Council feels that it will not be able to hold elections within the time prescribed, namey, the period of five years, then, it must, in advance, take care to approach the Bar Council of India and ask for extension of time. But, after the term has expired, it must be the compulsory duty of the Bar Council to proceed to appoint a committee. I am glad that this drastic measure is being introduced because this has become a notorious evil in the working of our State Bar Councils. Some State Bar Councils have not held their elections for a number of years. They have doubled their term by avoiding elections on one pretext or the other. I think the Minister will take care to see that the permisison of the Bar Council of India under section 8 is taken in advance before the expiry of the term. That will make sections 8 and 8A both, workable.

Then, Sir, about the special committee which has to be apopinted, it is a very drastic measure, and I welcome it. I welcome it because it is drastic. This is the only thing which will put the fear of God into the Bar Councils, and they will hold elections in time. But the drastic measure is that two members on the roll of the Bar Council thereafter become the entire Bar Council of the State. This requires, therefore, that those two members who are appointed to become practically the State Bar Council during the interregnum, should be members of great standing and integrity. You cannot prescribe qualifications of integrity in a Bill, but at least what should be provided is that these two persons must be senior members of the Bar. You cannot appoint just five-year standing members and make them the Bar Council of the State during the interregnum period. So, something must be done.

Secondly, you must make it clear that these members shall not include the representatives of that State in he Bar Council of India because the Bar Council of India members then will have a motivation for seeing to it that elections do not take place within that period of five years which has been prescribed.

Then, Sir, in section 10 and section 10A, the newly added section 5, it talks of the meetings of the Bar Councils of the States as well as the Centre to be held at places other than the Headquarters. Originally, under the original Advocates Act, the Bar Councils had this permission, but it was found that the Bar Councils had squandered away their funds so much so that some Bar Councils had landed in a situation of insolvancy by spending their moneys on holding meetings at far off places, hill stations. Sometimes meetings were held even in Jammu and Kashmir, not for the purpose of promoting national integration, but for having fun at public expense. I am glad again that at one stage by a law you took away this right from the Bar Councils. But now you are restoring that right. In restoring that right you should be a little more careful because each Bar Council is allowed to hold its meeting outside its Headquarters for reasons to be recorded by itself. Now, I think that this should be permitted only to the Bar Council of India. So far as the State Bar Councils are concerned, if they want to hold meetings at places other than their headquarters, the permission which they must seek, must be from the Bar Council of India. Otherwise they can always record some good or bad reasons. There is no method of review. There is no control of anybody, as a matter of fact. So, you are restoring umbridled freedom which was found not worthwhile, which was found deplorable and which had led the legislature in the past to take away that freedom for all time. Now, you must make a compromise, therefore, that the Bar Council of India

[Shri Moturu Hanumanta Rao]

must be asked for its permission and when the Bar Council of India gives permission to a State Bar Council to hold meetings at places other than headquarters, they will be compelled to laydown some guidelines. Those guidelines will then be applicable to their own exercise of discretion in the matter and this will be very good from the point of view of the functioning of the law councils as well as the fiscal implications of these meetings being held outside the headquarters.

The hon. Minister must have found out the financial condition of the Bar Council of India. I understand that the Bar Council of India has no money to pay its employees. Salaries have not been paid and so on. He has now said that the one-fourth share will go directly to the Bar Council of India. This probably takes care of the situation that the State Bar Councils were not sending their contributions to the Bar Council of India. To that extent it is a very laudable provision. But I do no know—if the hon. Minister has consulted the needs of the Bar Council of India — whether this is an adequate provision. You are giving them Rs. 125 per enrolment. I do not know whether this is adequate for the purposes and the duties which you have cast on the Bar Council of India But if you have consulted the Bar Council of India, it is all right. I am sorry, I am out of touch with the Bar Council of India for quite a number of years. So, if he has found out that the Bar Council is satisfied...

SHRI H. R. BHARDWAJ: Kindly give me one minute. May I just bring it to the notice of the House that all these provisions are in toto in conformity with the recommendations of the Bar Council of India and the Bar Councils of the States.

SHRI RAM JETHMALANI: If the Bar Council of India is happy with Rs. 125, I am happy about it. I personally think that they are in such a bad shape that they need more funds.

SHRI H. R. BHARDWAJ: Everything was discussed before me by the then Law Minister, Shri Dinesh Goswami.

SHRI RAM JETHMALANI: Very well. If the hon. Minister is happy and the Bar Council of India is happy....

SHRI H. R. BHARDWAJ: I agree with you. I am not satisfied. They will not be able to do their duties with these Rs. 125, but they should come forward.

SHRI RAM JETHMALANI: I am telling you that they are in a very bad shape. I do not mind telling the hon. Minister that they constructed a building in Delhi and they offered office to various Memebrs of the Bar. I am one of thoes who paid Rs. 2|- lakhs. Neither have I got the money from the Bar Council, nor have I got office. It i just because they have no money.

SHRI H. R. BHARDWAJ: I am very happy if the leaders like the hon. Member are interested in the Bar Council. Then it will improve definitely.

SHRI RAM JETHMALANI: If the Bar Council is happy, go ahead. These are some of the suggestions which I wanted to make. I am grateful to you for giving me a little time. I am glad that the hon. Minister is in a responsive mood and he is going to consider all the sugestions.

SHRI RAMA CHANDRAN PILLAI (Kerala): I am not satisfied with the provisions of the amendments. The amendments do not and cannot, according to me, make any substantial changes in the legal system. Of course, we are considering this Bill in a background where our judicial system is facing a very serious crisis.

The system is fast becoming less and less accessible to the common people in India. There is inordinate delay in the disposal of cases. The expenses for litigations are sky-rocketing. Only the privileged and affluent section can afford to get best legal expertise. The legal illiteracy among the common people is also increasing. The corruption in the judiciary, the intervention o fthe executive, the object surrender of certain judges before pressures all those things are there. So, the question is how to make the judicial system responsive to the needs of the society. How to make it serve the needs of the common people and how to restore confidence of the common people in the judicial system. All these are important issues. Government is not addressing itself to these problems. The Government is not proposing any solution to these problems. Of course, the parent Act of 1961 was passed 32 years back. What has been our experience with regard to the Advocates Act of 1961? During these 32 years, a lot of changes have taken place. We have also made certain amendments in the Advocates Act of 1961. In 1974 also we have made certain amendments to this Act. So what are our experiences? On the basis of those experiences, what are you suggesting? What are the new changes that have taken place? How to tackle all those things? The Government of India is not going through all these details and make suitable proposals. As usual, the Government is led by adhocism, casualness, lack of will and determination. Now the Government of India has come up with certain amendments that touch only the constitution of the Bar Council, the right of holding the meeting outide the capital of the States and outside the capital of Delhi, the right to visit universities, the right to establish and maintain libraries and also with regard to admission fee.

Sir, the principle existing in our legal system is ignorance of law is no excuse. So this puts a duty upon the citizens to know the law on the pain of sanction. There is no right conferred upon the citizens to have access to legal information. According to me this is one of the legacies of the colonial past. Of course, the normative law is virtually inaccessible to the common people. The knowledge and the technicalities of law are shrouded in mystery for the common people. Even the routine and elementary procedures such as filing of certain papers before a court, getting a copy of the judgement, the common people can't understand all those things. There are provisions in the Advocates Act that it is one of the duties of the Bar Council of India and the State Bar Councils to make the people aware of the provisions of the law. What have they done? What has the Government done with regard to all these things? The question of where they are meeting is immaterial. But the main isue is: why are they meeting and what are they deciding? The Government is not throwing any light on these problems.

Then the other issue is the legal sysetm and its inefficiency to give legal aid to the common people. Of course, this automatically follow from the Fundamental Rights of our Constitution. The Government should have come forward with what is the record of performance of the Bar Councils. Of course, there is a provision in the Advocates Act to provide these things. The thing is what all they did is insufficient to cater to the needs of the common people. So the Bar Council should do more in the context of the inadequate sensitivity and urge of the professionals to apply their professional expertise to the poor people.

Then there is the professional impropriety on the part of lawyers towards their clients. It has been increasing. Only a handful of defaulters, members are punished. The other day I read a comment made by our hon. Minister in a recent meeting held in Delhi. But what are the measures he is taking to curb these tendencies? Actually the image of the lawyers

[Shri Ramachandra Pillai]

and the profession in the popular mind is not far from what was depicted by Shakespeare in King Henry VI. The Dick, the butcher says "The first thing we do is, let us kill all the lawyers.' Still that imge is persisting. I am not criticising all the lawyers. I am crtiicising some of the lawyers for their negligence, collusion with the opposite parties, their unlawful extraction and their purposeful delay leading to the denial of justice go, many times, unnoticed and unpunished. So, the persuasive and coercive sanctions exercised by the professional bodies are feeble and not adequate to protect the interests of the common people. The Bar Council of India should consider all these aspects and should take appropriate measures. The Government should also take note of all these things.

Legal practice in India in intensely competitive and many of the advocates find it difficult to eke out even the bearest-minimum survival. The Bar Council of India and the State Bar Councils should look into this particular aspect. The Government should also look into this. They should see that the best brains are attracted to this profession and should take care to protect their interests.

About legal education, I do not deny that there have been certain changes with regard to the legal education in the recent past. But I am not satisfied with these changes. The syllabi and the teaching methods require further change. The syllabi are not sufficient to meet the needs and the problems we face in our country. There is only one mention in the proposed amendment wherein the Bar Council is empowered to visit universities. That is not sufficient. More interaction is required and a thorough change of the syllabi and the teaching methods are required, Now teaching is subordinate to examinations. The teaching method is to be changed. There is hardly any dialogue between the teacher and the student. All these things require further study and further thinking. The present amendments do not care to find solutions to these problems. They touch only some minor areas. This casualness on the part of the Government is dangerous I appeal to the Government to go into all these details and come with thorough-going changes in the provisions of the Advocates Act and also our judicial system so as to make it more judicious. Thank you.

श्री ईश दत्त यादव (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष महोदय, एडवोकेट एक्ट में जो संशोधन प्रस्तुत किये गये है और जो विधेयक इस संबंध में लाया गया है मैं इसका समर्थन करता हूं । लेकिन जो संशोधन लाये गये हैं ये पर्याप्त संशोधन नहीं हैं। आपके माध्यम से मैं विधि मंत्री जी से चाहता हूं कि वह एडवोकेट एक्ट पर पुन: गम्भीरता से विचार करें क्योंकि कुछ और संशोधन अपेक्षित हैं इस एक्ट में। उदाहरणस्वरूप मैं निवेदन करना चाहता हूं कि स्टेटबार कौंसिल का क्षेत्र होता है कंस्टीट्युएंसी होती है वह पूरा स्टेट है हमारे उत्तर प्रदेश में पिछली 4 अक्तूबर और 8 अक्तूबर को यू.पी. बार कौंसिलर के लिए मतदान हुआ। उसकी निरन्तर मतगणना चल रही है। मुझे इलाहाबाद हाई कोर्ट के एक वकील ने तीन दिन पहले बताया कि एक महीना या महीने से ज्यादा मतगणना और चलेगी। मैं यह निवेदन कर रहा था कि जब डेमोक्रेटिक कंटरी में हर चीज की कंस्टीट्युएंसी बनी हुई है, क्षेत्र बना हुआ है, नगर पालिका, गांव सभाओं के छोटे-छोटे क्षेत्र बने हुए हैं तो इसके लिए भी पूरा स्टेट न रख कर इसको भी संख्या के हिसाब से, अनुपात के हिसाब से क्षेत्रफल कर दिया जाए ताकि इसके चुनाव की मतगणना में सुविधा हो जाए । मैं पुन उदाहरण दे रहा हूं कि उत्तर प्रदेश में मेरी जानकारी में 40 सदस्यों का निर्वाचन होना था और उसमें दो सौ से ज्यादा कंडीडे खड़े थे ।

और मैं स्वयं मतदाता हूं और जब वोट डालने के लिये गया तो जिसको वोट डालना चाहता था, 15 मिनट तक उसका नाम ढूंढता रहा फर्स्ट परफरेंस में जिस को वोट देना है उसका नाम कहां है। इसलिये मैं आपसे अनुरोध करना चाहता हूं कि एडवोकेट एक्ट में इस तरह से आप संशोधन करें ताकि चुनाव की जो प्रक्रिया है वह सरल हो सके।

दूसरा निवेदन मैं यह करना चाहता हूं कि आपने मैन एक्ट में, 1961 के प्रिसिपल एक्ट में, उसके 24(ए) में, यह संशोधन करने का प्रयास किया है। इसमें आपने कहा है–

"After clause (b) the following clause shall be inserted, namely when he is dismissed or removed from employment or office under the State on any charge involving moral turpitude."

मान लीजिए एनरोलमेंट हो गया और एनरोलमेंट होने के बाद मारल टरपिट्यूट में कोई एम्प्लीकेट हो गया, कंविक्ट हो गया तो उसके बारे में हमको यह लगता है कि आप साइलेन्ट हैं। इसलिए अगर आप यह व्यवस्था करते हैं कि ऐसे व्यक्ति का पंजीकरण नहीं हो सकेगा जो अनैतिक अपराधों से सम्बद्ध है या जिसको अनैतिक अपराधों में सजा हुई है तो आपको यह भी प्रोविजन करना पड़ेगा कि एनरोलमेंट हो जाने के बाद भी, पंजीकरण हो जाने के बाद भी, अगर वह उस तरह के अनैतिक अपराधों में इंवोल्व होता है तो उसका एनरोलमेंट समाप्त कर दिया जाएगा। अब इस संबंध में दूसरी चीज कहना चाहता हूं। एक संशोधन आपको विधि मंत्री जी और करना चाहिए। मैं यह बात व्यवहारिक अनुभव के आधार पर कह रहा हूं। जो रिटायर लोग हैं उनका मौलिक अधिकार है, फण्डामेंटल अधिकार है कि सेवा से निवृत होने के बाद वे वकालत के पेशे में जा सकते हैं। लेकिन इतनी व्यवस्था आप करें कि अगर कोई कलेक्टर, आई.ए.एस. अफसर या कोई जज या मुंसिफ रिटायर होता है तो उसी डिस्ट्रिक्ट में वकालत न करे। मैं दो जजेज को जानता हूं। जिन्होंने रिटायर होते ही नक्स्ट डे को उसी जगह और उसी जिले में वकालत प्रारम्भ कर दी। उनकी वकालत उनके दबाव के कारण अच्छी चली। अच्छी चले, यह ठीक है, स्वागत है, लेकिन नाजायज दबाव डालें, इस पर भी आपको ध्यान देना पड़ेगा। कम से कम जिस स्थान से रिटायर हों, जिस जिले से रिटायर हों, उस जिले में वे लीगल प्रेक्टिस न करें।

अब दो तीन बात मैं और अनुरोध करना चाहता हूं। यह तो वकील का पेशा है यह बड़ा गौरवमय पेशा है। इसमें बड़ी प्रतिष्ठा होती है। इसमें बुद्धि का, विवेक का, विधि के ज्ञान का, प्रयोग किया जाता है और जो अभिभाषक होता है वह न्यायालय का अंग माना जाता है। न्यायालय को सही निष्कर्ष पर पहुंचने में, न्यायालय को सही न्याय देने में वह सहयोग करता है। लेकिन आज के समय में मैं अपने सीनियर एडवोकेट श्री राम जठमलानी जी के संदर्भ में नहीं कह रहा हूं। वे तो बड़े वकील हैं और इस देश की महान हस्ती हैं। लेकिन जो जिला न्यायालय में काम करते हैं उनकी स्थिति अच्छी नहीं है। उन की स्थिति सम्मानजनक नहीं है। वर्तमान परिस्थितियों में जो जिला न्यायालय है व उनके ज्ञान, बुद्धि और विवेक का लाभ नहीं पा रहे हैं। जो उच्चतम न्यायालय और उच्च न्यायालय की व्यवस्थायें हैं, उनकी जो रूलिंग्ज हैं, वे उनका कोई लाभ नहीं लेते हैं। वकील की उपेक्षा होती हैं। मैं बहुत स्पष्ट इसके बारे में नहीं कहना चाहता हूं। यही कहना चाहता हूं कि जिलों में जो अभिभाषक काम करते हैं उनकी स्थिति अच्छी नहीं होती है। इसलिए मैं माननीय विधि मंत्री से अनुरोध कर रहा हूं कि आप अपने कार्यकाल में विधि मंत्री रहते हुए दो तीन व्यवस्थायें अवश्य कर दें। एक तो अभिभाषक के लिए पेंशन की व्यवस्था कर दे और दूसरे प्रोविडेन्ट फण्ड की व्यवस्था कर दें जैसे सर्विसेज में होता है। इसके लिए भले ही कोई शर्त लगा द जैसे आपने एनरौलमेंट के लिए शर्त लगा दी है एनरौलमेंट के लिए इतने रुपये जमा

करने की जरूरत हैं। इसकी शर्त लगा दें कि हर महीने में जो अभिभाषक है, जो वकील हैं, वह कुछ न कुछ पैसा जमा करता है, उसका कलेक्शन होता रहे और इसके लिये आप प्रोविडेंट फंड की व्यवस्था करें, पेंशन की व्यवस्था करें। जब सरकारी कर्मचारियों को सब सुविधायें हैं, मेडिकल सुविधा है तो अभिभाषकों के लिये भी यह सुविधा होनी चाहिये क्योंकि वह भी न्यायालय का अंग होता है। बिना अभिभाषक के न्यायालय का कार्य पूरा नहीं होता। वह न्यायाय का पार्ट एंड पार्सल है। इसलिए जब न्यायालय के चपरासी के लिए मेडिकल एड की व्यवस्था हैं तो इनके लिये क्यों नहीं होनी चाहिये ? इसलिये मैं अपनी बात समाप्त करते हुए केवल आपसे अनुरोध करना चाहता हूं कि उनके लिये आप इंश्योरेंस की भी व्यवस्था करायें। अगर किसी का अल्पकाल में देहान्त होता है, अभिभाषक का किसी दुर्घटना में देहान्त हो जाता है या वह अपंग हो जाता है तो ऐसी स्थिति में उसको ऐसी सुविधा उपलब्ध होनी चाहिये, यह मैं आपसे अनुरोध करता हूं।

अंत में अपनी बात को समाप्त करते हुए मैं अपनी पूरी शक्ति और अपने पूरे जोर के साथ आपके माध्यम से विधि मंत्री महोदय से अनुरोध करता हूं कि अभिभाषकों के लिये पेंशन प्राविडेंट फण्ड और इंश्योरेंस की तत्काल व्यवस्था करने का कार्य करें। इसके अनुसार अधिवक्ता एक्ट में सरकार से हमें संशोधन की अपेक्षा है। बहुत बहुत धन्यवाद।

SHRI N. GIRI PRASAD (Andhra Pradesh): Mr. Vice-Chairman Sir, it seems, according to this Amendment Bill, that the Minister wants to democratise the Bar Associations at the State level. But I am not sure whether that purpose would be served by the type of amendments proposed in this Bill. My preliminary point is this: Is it necessary that the term of office of the elected members of the Bar Council should be five years? After all this is not a general election involving lakhs and crores of people. The members of the Bar may naturally be a few hundreds or a few thousands. In that case the term of office can be reasonably limited to three years or so. In these days of democracy every profession or every organisation should be naturally democratised and every member of the associations must be involved. Since I am not a member of the Bar, I cannot say that the present state of affairs in the Bar Council is based on healthy conventions or any unhealthy practices have taken shape there. That is for the Bar Associations and the Councils to look after But as a citizen I can say that their methods, their practices and their ethics will influence the social set-up and the social thinking. Naturally, according to me, every profession is a noble profession. It may be a profession which requires hard working or professions like medical or legal practice. Every man who works in any profession must be a noble person and that profession must also be noble. But since these people are educated people, lawyers, the way they behave, the way they practise and the way they run their own organisations will have its impact on the other segments of the associations or citizens. So, I request the Minister to consider this suggestion though these amendments emanated from the Bar Council of India. I respect their standing and views This suggestion also may be taken note of. I don't understand why these Bar Councils are not able to hold elections within five years. Then there is a provision for extension of time and within the extended time elections have to be held. I don't understand the logic behind it. After all, for assemblies and for Parliament regular elections are being held. There are some vested interests who do not want regular elections and who want to monopolise this organisation for some reason or the other. These vested interests should be checked thorough-

ly. Then some legal provision should be there so that elections could be held within a fixed time-frame.

The Bill says:

"(dd) to promote the growth of Bar Associations for the purpose of effective implementation of the welfare scheme..."

I don't know what type of schemes are there. I am not very clear about it.

The Bill also says:

"(gg) to visit and inspect Universities..."

Unless I know something about it from the Minister, I have got my misgivings on these two aspects.

Nowadays hundreds and thousands of cases are pending before different courts. One of the reasons for this is litigation created by lawyers themselves. They go on creating some legal technicalities so that litigation is prolonged and justice is denied. In this process vested interests are being benefited, rich people are being benefited and poor people are being forced to suffer. The Government should have already applied its mind to this problem. Poor people are suffering because of the weaknesses in legal provisions, because of the weaknesses in the justicial system. They are not getting justice. The Minister has, many times, said in the House and outside also that the legal system must be made inexpensive and speedy disposal of cases is very necessary. This must be looked into. Thank you.

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) : मोहम्मद खलीलर रहमान साहब यह एडवोकेट अमेंडमेंट बिल पर जो आप बोल रहे हैं यह तो बिलकुल विधि-विधान की चीज है। इसमें तो कानून मानना पड़ेगा। तीन मिनट का आपका है।

श्री मोहम्मद खलीलर रहमान (आन्ध्र प्रदेश) : मैं तीन मिनट में ही खत्म करूंगा। जनाब चेयरमैन साहब, मैं एडवोकेट अमेंडमेंट बिल, 1992 की ताईद करता हूं। इस बिल के जरिये जो अमेंडमेंट लाया गया है, यह जरूरी भी था लेकिन इसके साथ ही यह बेहतर होता अगर और भी कई चीजें इसमें आनरेबल मिनिस्टर साहब ले कर आते। जैसे कि आप जानते हैं कि जहां तक पेशा-वकालत का सवाल है, यह एक नोबल पेशा है। जंगे आजादी के जमाने में इस पेशे से ताल्लुक रखने वाले लोगों ने जंगे आजादी में इंतेहाई अहम रोल अदा किया है। मैं तो यह कहूंगा कि हमारी जंग आजादी और आजादी मरहूने मिन्नत उन्हीं की है जिनका ताल्लुक इस पेशा वकालत से ज्यादा रहा है। मैं इससे फायदा उठाते हुए आनरेबल मिनिस्टर साहब से यह कहूंगा कि पहले ला ग्रेजुयेशन कम्पलीशन के फौरी बाद प्रैक्टिस करने की इजाजत नहीं दी जाती थी। इसके लिएबार काउंसिल के तहत एक एग्जाम होता था जो पास करना बेहद जरूरी होता था। मगर पिछले चंद दिनों से मैं यह देख रहा हूं कि बार काउंसिल के इग्जाम की जो शर्त थी वह उठा ली गयी है और सीधे यूनिवर्सिटी से ज्यों ही ला ग्रेजुएट निकलता है वह कोर्ट में चला जाता है बगैर किसी एप्रेंटिसशिप किये। तो जाहिर है कि जिस बेहतर अंदाज में उसे अपने केसेज को रिप्रजेंट करना चाहिए उस तरीके से वह रिप्रजेंट नहीं कर सकता। इस वजह से यह जरूरी है कि अप्रेंटिसशिप होनी चाहिए और फिर बार काउंसिल इग्जाम की शर्त बेहद जरूरी है।

दूसरा, मेरी एक तजवीज यह है कि जहां तक हमारे सुप्रीम कोर्ट के और हाई कोर्ट के जो लीडिंग प्रेक्टिशनर्स हैं वे लाखों रुपया कमाते हैं उनके ताल्लुक से मुझ ज्यादा कहने की जरूरत नहीं है लेकिन मुफस्सिल कोर्टस में तालुके की सतह पर जिले की सतह पर अभी भी ऐसे एडवोकेट्स हैं जो बेचारे 25-25, 30-30, 40-40 साल से इस पेशे से वाबस्ता रहे हैं मगर आखिरी जमाने में इतनी उनकी हालत खराब हो जाती

हैं कि बयान से बाहर है। उनको सपोर्ट करने के लिए कुछ नहीं रहता है। हमने यह देखा है कि हर एक पेशे के लिए बाजाब्ता फंड्स फराहम किये गये हैं हुकूमत की जानिब से। यही एक पेशा वकालत ऐसा है कि जिसकी इतनी खराब हालत है। मैं आपसे दरख्वास्त करूंगा कि कुछ आप ऐसी स्कीम निकालिए जिस तरह से एक मुलाजिम सरकार में या प्राइवट फंड में कुछ कंट्रीब्यूशन जमा करता है और वह उस पेशे से जब अलहिदा होता है तो उस प्राइवेट फंड में जमाशुदा पैसे की डबल रकम उसे मिलती है, इसी तरह से एडवोकेट्स को भी जब वे तकरीबन रिटायर हो जाते हैं तो उनको यह सहूलियत मिलनी चाहिए और जैसा कि ईश दत्त यादव जी ने पेंशन स्कीम के बारे में कहा, उस पेंशन स्कीम की मैं भरपूर ताईद करता हूं। जहां तक मेडिकल एड का सवाल है, जब मेम्बर्स आफ पार्लियामेंट को मेडिकल एड मिल सकती है, जब मुजाहिदीने आजादी को मेडिकल एड मिल सकती है, मुलाजिमीने सरकार को मेडिकल एड मिल सकती है तो क्यों न पेशे वकालत से ताल्लुक रखने वाले लोगों को भी मेडिकल एड दी जाए। लिहाजा मैं आपकी तवक्को से आमरेबुल मिनिस्टर साहब से यह दरख्वास्त करूंगा कि इस तजवीज पर गौर करें और आप अपने जवाब में इस ताल्लुक से फरमायें। शुक्रिया।

[श्री मोहम्मद खलीलुर रहमान]

उपसभाध्यक्ष (श्री शंकर दयाल सिंह): बहुत-बहुत धन्यवाद आपको। मंत्री जी जवाब दें।

†[شری محمد خلیل الرحمن

(آندھرا پردیش): میں تین منٹ میں ہی ختم کروں گا۔

† [ ] Transliteration in urdu script.

جناب وائس چیرمین صاحب میں ایڈوکیٹ امینڈمنٹ بل 1992 کی تائید کرتا ہوں اس بل کے ذریعہ جو امینڈمنٹ لایا گیا ہے یہ ضروری بھی تھا۔ لیکن اسکے ساتھ ہی یہ بہتر ہوتا اگر اور بھی کئی چیزیں اسمیں آنریبل منسٹر صاحب لیکر آئے۔ جیسا کہ آپ جانتے ہیں کہ جہانتک پیشہ وکالت کا سوال ہے یہ ایک نوبل پیشہ ہے۔ جنگ آزادی نے زمانہ میں اس پیشہ سے تعلق رکھنے والے لوگوں نے جنگ آزادی میں انتہائی اہم رول ادا کیا ہے۔ میں تو یہ کہونگا کہ ہماری جنگ ازادی اور آزادی سرھون منت انہی کی ہے۔ جنکا تعلق اس پیشہ وکالت سے زیادہ رہا ہے۔ میں اس سے فائدہ اٹھاتے ہوئے آنریبل منسٹر صاحب سے یہ کہونگا کہ پہلے لا گریجویشن کمپلیشن کے فوری بعد پریکٹس کرنے کی اجازت نہیں دیجاتی تھی اسکے لئے بار کاؤنسل کے تحت ایک ایگزام ہوتا تھا جو پاس کرنا بیحد ضروری ہوتا تھا مگر پچھلے چند دنوں سے میں یہ دیکھ رہا ہوں کہ بار کاونسل کے ایگزام کی جو شرط تھی وہ اٹھا لی گئی ہے اور سیدھے یونیورسٹی سے جونہی لا گریجویٹ نکلتا ہے سیدھا کورٹ میں چلا جاتا ہے بغیر کسی اپرنٹس شپ کئے۔ تو ظاہر ہے کہ جس بہتر انداز میں اسے اپنے کیسوز کو ری پریزنٹ کرنا چاہئے اسطریقہ سے وہ ری پریزنٹ نہیں کر سکتا۔ اسوجہ سے یہ ضروری ہے کہ اپرنٹس شپ ہونی چاہئے اور پھر بار کاونسل ایگزام کی شرط بیحد ضروری ہے۔

کو میڈیکل ایڈ مل سکتی ہے تو کیوں نہ پیشہ وکالت سے تعلق رکھنے والے لوگوں کو بھی میڈیکل ایڈ دی جائے - لہذا میں آپ کے توسط سے آنریبل منسٹر صاحب سے درخواست کرونگا کہ اس تجویز پر غور کریں اور آپ اپنے جواب میں اس اس سے فرمائیں - شکریہ

SHRI H. R BHARDWAJ: Sir, at the outset I will thank all the Members who have spoken so eloquently supporting this Bill. Shri Sangh Priya Gautam has given several suggestions regarding a comprehensive Bill to be brought soon touching all aspects of the improvements that are needed in the Advocates Act and I have noted them down. Then he has also said that the legal profession has suffered in reputation. A lot of discipline is required to be brought in and it is necessary to restore the glory of the profession. I also agree that we have to do a lot of heart-searching introspection and that we promise will be done. He has also suggested training for lawyers. I share his views and I promise that immediately we will be getting in touch with the Bar Council of India to see that this training programme is decided upon after negotiating with the various State Bar Councils and senior members of the Bar. My own views are that in matters of the Bar, we should leave it to the Bar itself to decide what is in their interest. Once we have given autonomy to the Bar Councils and the Bar Council of India, we would not like to erode this autonomy by any measure or in any sphere. Therefore, it is a wholesome suggestion that we should introduce — as a mater of fact, reintroduce — the training programmes for young lawyers who come to courts Suggestions have also been made that we must have some welfare schemes for lawyers from weaker sections, lawyers who are desti-

دوسرا - میری ایک تجویز یہ ہے کہ جہانتک ہماری سپریم کورٹ کے اور ہائی کورٹ کے جو ایسوسی ایشن پریکٹشنر ہیں وہ لاکھوں روپیہ کما رہے ہیں - انکے تعلق سے مجھے زیادہ کہنے کی ضرورت نہیں ہے لیکن منصف کورٹس میں تعلقہ کی سطح پر ضلع کی سطح پر ابھی بھی ایسے ایڈوکیٹس ہیں جو بیچارے ۲۵-۲۵ ۳۰-۳۰ ۳۰-۳۰ سال سے اس پیشہ سے وابستہ رہے ہیں مگر آخری زمانہ میں انکی حالت خراب ہو جاتی ہے کہ بیان سے باہر ہے - انکو سپورٹ کرنے کیلئے کچھ نہیں رہتا ہے - ہم نے یہ دیکھا ہے کہ ہر ایک پیشہ کیلئے یا ضابطہ فنڈس فراہم کئے گئے ہیں حکومت کی جانب سے - یہی پیشہ وکالت کا ایسا ہے کہ جسکی حالت خراب حالت ہے میں آپ سے درخواست کرونگا کہ کچھ آپ ایسی اسکیم نکالئے جسطرح سے ایک ملازم سرکار میں یا پرائیویٹ فنڈ میں کچھ فنڈس بھوشن جمع کرتا ہے اور وہ اس پیشہ سے جب علحدہ ہوتا ہے تو اس پرائیویٹ فنڈ میں جمع شدہ پیسہ کی ڈبل رقم اسے ملتی ہے اسی طرح سے ایڈوکیٹس کو بھی جب وہ تقریباً ریٹائر ہو جاتے ہیں تو انکو یہ سہولت ملنی چاہئے اور جیسا کہ ایشدت یادو جو نے پینشن اسکیم کے بارے میں کہا اس پینشن اسکیم کی میں بھر پور تائید کرتا ہوں - جہانتک میڈیکل ایڈ کا سوال ہے جب ممبرس آف پارلیمنٹ کو میڈیکل ایڈس مل سکتی ہے - ملازمین سرکار کو میڈیکل ایڈ مل سکتی ہے - جب مجاہدین آزادی

tutes and lawyers who die a premature death. These are wholesome and welcome sugegstions and I promise that I will very soon get in touch with the Bar Council and we will see how these can be implemented and what suggestions the Bar Council has to make. I am also particularly happy that I got support from my senior Member, Shri Ram Jethmalani. He wanted certain clarifications. I would like to clarify one thing. I myself checked the word 'growth in Section 2. This is co-related with the implementation of the welfare schemes. The idea is not to multiply or grow the Bar Associations one after another but the idea is to bring in some welfare schemes like the ones suggested by Shri Sangh Priya Gautam and Shri Ish Dutt Yadav. How do we implement those welfare schemes? So, it is desired that the forum to implement these schemes should be the Bar Association which is a recognised body of lawyers. They should be charged with this duty. They should look after the interests of the people. The welfare schemes should be implemented through the Bar Associations. And, to that extent. the word 'growth' may not be proper. But I perosnally feel that they should be made 'strengthening the existing Bar Associations'. I do not say that we should have too many Bar Associations. Earlier, under the Legal Practitioners Act, it was compulsory for every lawyer to belong to one Bar Association and that was the District Bar Association. It is a wholesome thing that we should have one united body of association in one district and not too many because dividing the legal profession is not very good. We hold a very independent profession. We stand between the tyrannies. We stand between the rights of citizens. We must see to it that the courts are run according to law. There is a rule of law and functioning of democracy and it is the functioning which the lawyers discharge that paves way for the maintenance of the rule of law and democracy. Therefore, the more the independence that this profession enjoys, the better it is for the citizens of this country. And their role is so delicate that we should do nothing to erode it. Now the Members have just said that they did not want to give their share of contribution to the development of the Bar Councils. There may be various reasons for it. I respect the sentiments of the hon. Member, Shri Ram Jethmalani. He himself was, at one point of time, the Chairman of the Bar Council. Those days are no longer there. The Bar Council has really not taken that much interest that it should. And I agree that the senior members should be drawn into it and the leaders of the Bar should be invited to take part in the development of the Council. In a democracy, the numbers count. But sometimes it so happens that after elections, people so elected at the helm of affairs do not really work to the desired standard. We can discuss this aspect. If the recognised leaders of the Bar desire, we can put our heads together and see to it that our image in the society and the glory of the past, present as well as the future are maintained. So, I thank him particularly for lending his support to this issue. He has always been kind to me. I thank him again for this. Then with regard to the Bar Council of India holding its meetings, the Bar Council wrote to us that they would want to revert to the earlier system. We leave it to them to do what they think fit in their good sense and in their own interests. They should hold meetings outside only when it is necessary. I do not want to put in some hurdles in the functioning of the Bar Councils. And if at all other things are required, we can again talk to them. There is also a suggestion to give Rs. 250 to Rs. 750. Even then the funds will be inadequate because provision of welfare facilities, maintenance of library and so on are not possible within this system. We had earlier requested them to constitute some sort of a welfare fund which should be a unified welfare fund and then that fund could be distributed

amongst the State Bar Councils and then down to the District Bar Associations. Perhaps, they have not been able to work on this. I am taking up this aspect also with the Bar Councils. That would be constituted in a month or two. Then, I would personally request the hon. Member, Shri Ram Jethamalani, to guide the lawyers of the Bar Councils who come from the weaker sections. Today, particularly, the problem is that the scope of Bar Associations has expanded because of the spread of education among the weaker sections of the society as well. They are now coming up and they are feeling some difficulty. So, these welfare measures have been suggested. Our purpose in increasing the fee is to make some money available and to use that fund for lawyers who are destitutes, who need medical facilities. I dont personally think it is possible for the Government to give pension because pension is given in lieu of services rendered. Lawyers are paid by their clients for the services they render. But we can devise a method by which the Indian Bar Council can arrange all these facilities and we don't need to depend on the Government. If we depend on the Government for money, I apprehend that the independence of the profession will get eroded Government can definitely give some contribution to the fund which they will constitute and this fund should be large enough to support the lawyers' community wherever it needs.

The other suggestion is regarding judicial reforms. This particular Bill is merely a measure towards that direction and it is a result of discussions which had already taken place between the Bar Council and other organisations.

Now I request that the Bill may be passed.

THE VICE-CHAIRMAN (SHRI SHANKER DAYAL SINGH): Now I shall put the motion to vote.

The question is:

"That the Bill further to amend the Advocates Bill, 1961, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): Now, I shall take up clause by clause consideration of the Bill.

Clauses 2 to 9 were added to the Bill.

CLAUSE 1—(SHORT TITLE)

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): There is one amendment to clause 1.1 request the Minister to move the amendment.

SHRI H. R. BHARDWAJ: Sir, I move:

"That at page 1, line 3, *for* the figure "1992", the figure "1993" be *substituted*."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): Now I shall put clause 1, as amended, to vote.

The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

ENACTING FORMULA

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): There is one amendment to the Enacting Formula. I request the Minister to move the amendment.

SHRI H. R. BHARDWAJ: Sir, I move:

"That at page 1, line 1, for the word 'Forty-third' the word 'Forty-fourth' be *substituted*."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): I shall now put the Enacting Formula, as amended, to vote.

The question is:

"That the Enacting Formula, as amended, stand part of the Bill,"

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRI H. R. BHARDWAJ: Sir, I move:

"That the Bill, as amended, be passed."

The question was put and the motion was adopted.

श्री मोहम्मद अफजल उर्फ मीम अफजल (उत्तर प्रदेश): सर, मेरी दरख्वास्त यह है कि चूंकि कम्युनिकेशन मिनिस्टर साहब आ गए हैं इसलिए पहले क्लेरिफिकेशन करा दें और बाद में बिल को लें।

†[شری محمد افضل عرف م- انفل: سر میری درخواست یہ ہے کہ کیونکہ کمیونیکیشن منسٹر صاحب آ گئے ہیں اسلئے پہلے کیری فیکیشن کرا دیں اور بعد میں بل کو لیں۔]

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) ऐसा है कि साढे पांच बजे क्लेरिफिकेशन लेना है। अभी 15 मिनट का समय है, 15 मिनट में इसको मूव हो जाने दीजिए। ...(**व्यवधान**)...क्लैरिफिकेशन तुरन्त चल जाएगा। पहले यह है आर्डर में, तो इसको ले लें।

THE NATIONAL COUNCIL FOR TEACHER EDUCATION BILL, 1993

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): Now we will take up the National Council for Teacher Education Bill, 1993.

THE DEPUTY MINISTER IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF EDUCATION AND DEPARTMENT OF CULTURE) (KUMARI SELJA): Sir, I beg to move:

"That the Bill to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and for matters connected therewith as passed by the Lok Sabha, be taken into consideration."

Sir, the Bill has already been approved by the Lok Sabha on 14.5.93.

The National Policy on Education, 1986, provided that the National Council for Teacher Education (NCTE) could be provided with necessary resources and capability of accrediting institutions of teacher education and provide guidance regarding curricula and methods. The Programme of Action prepared for the implementation of the National Policy on Education realised the inherent weaknesses of the existing National Council for Teacher Education which was set up by a Government Resolution in 1973. Its role was purely advisory and mainly

† [ ] Transliteration in urdu script.